

Exhibit D

GERSTMAN SCHWARTZ^{LLP}
ATTORNEYS AT LAW

May 17, 2021

VIA EMAIL

Aaron J. Gold
Orrick, Herrington & Sutcliffe LLP
51 West 52nd Street
New York, NY 10019

Re: *National Coalition on Black Civil Participation et al. v. Wohl et al.*, United States District Court, Southern District of New York, Case No. 1:20-cv-08668

Dear Mr. Gold:

We write in response to your May 14, 2021 correspondence. At the outset, we remind you that Defendants objected to each of your Requests in their entirety insofar as they seek documents, the disclosure of which would constitute an unwarranted invasion of the Defendants' constitutional Fifth Amendment privilege against self-incrimination. *See United States v. 4003-4005 5th Ave.*, 55 F.3d 78, 80 (2d Cir. 1995) (emphasis supplied) ("While U.S. Const. amend. V states only that no person shall be compelled in any criminal case to be a witness against himself, **there is no question that an individual is entitled to invoke the privilege against self-incrimination during a civil proceeding. And this means that a civil litigant may legitimately use the U.S. Const. amend. V to avoid having to answer inquiries during any phase of the discovery process.**"). This has been our position from the very beginning, and we will not waiver despite your assertion to the contrary. You can save your arguments about the credibility and/or weight of the evidence for the jury.

To this end, we categorically reject your claim that our objections are "meritless" and contain "provable inaccuracies", and your letter is replete with presumptuous, and clearly subjective, conclusions of both law and fact. For example, your first point regarding Plaintiffs' Request Nos. 1, 3, 4, 5, 9, 10, 16, 17, 18 and 21, in which you reference emails you claim are in Defendants' "own words" and which purportedly reference Defendants' alleged plan to "HIJACK" the "boring '2020 Presidential Election'" is unseemly. Your justification for this position is wholly speculative as to the authenticity, source, and motive of the individual(s) responsible for these alleged emails.

Similarly, the USA Today article you claim undermines Defendants' responses to Plaintiffs' Request Nos. 5 and 10 is replete with conjecture and does not contain any direct quote from Mr. Wohl stating that he was going to "discredit democrats in the 2020 election with lies and other disinformation,"—as you disingenuously allege. Rather, the article merely states, in general terms, that Mr. Wohl purportedly made statements to this effect to a reporter for the

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publication. This in no way constitutes credible evidence that Mr. Wohl made any such statement or that any documents regarding same exist.

With regard to Request No. 13, notwithstanding that Plaintiffs have the burden of proof and this Request improperly attempts to shift the burden, no such responsive documents exist.

Finally, your assertion that “[s]uch documents are plainly relevant to Defendants’ efforts to influence the 2020 election, which are at issue in this case...” is wholly irrelevant and patently false. Whether or not Defendants sought to influence elections or public opinion is not relevant to these proceedings because every citizen has a right to engage in public debate or influence elections. Such are not elements to either the Voting Rights Act or Ku Klux Klan Act, nor prohibited thereby.

We are available to discuss the foregoing, as well as your remaining contentions, on Wednesday, May 19, 2021. We are available between the hours of 12:00 p.m. and 2:00 p.m., and 4:00 p.m. and 6:00 p.m. Please let us know what time is best for you.

Sincerely,

/s/ Randy E. Kleinman
Randy E. Kleinman